

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C.**

In the Matter of)	
)	
Developing a Unified Intercarrier)	CC Docket No. 01-92
Compensation Regime)	

COMMENTS OF THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

The Public Service Commission of the State of Missouri (“MoPSC”) offers the following comments in response to the Federal Communication Commission’s (“Commission”) April 19, 2001 Notice of Proposed Rulemaking (“NPRM”) issued in the above docketed case. The Commission seeks comment on the feasibility of a bill-and-keep approach as means of attaining a unified regime for the flows of payments “that would apply to interconnection arrangements between all types of carriers interconnecting with the local telephone network, and to all types of traffic passing over the local telephone network” under current systems of regulation. In the NPRM, the Commission emphasizes that it seeks an approach to intercarrier compensation that “will encourage efficient use of, and investment in, telecommunications networks, and the efficient development of competition.”

In the NPRM, the Commission poses many questions that require consideration before implementing a unified intercarrier compensation regime (“unified regime”). Many of the issues and questions posed for comment are interrelated to intrastate issues currently pending before the MoPSC. However, because of the potential widespread implications of a unified intercarrier compensation regime, the MoPSC finds it imperative to express its overall concerns with the proposal.

Traditionally, it was assumed that local exchange carriers (LECs) would charge other carriers for access to their networks. It was also assumed the calling party was the “cost-causer” of the call. The proposed unified intercarrier compensation regime challenges these assumptions. However, there remain many unresolved questions as to the appropriateness of bill-and-keep, or some other compensation mechanism, as the basis for a unified regime. For example, will bill-and-keep: a) provide fair compensation for carriers when there is an imbalance in the type or volume of traffic; b) maintain a reasonable connection between the “cost-causer” and the “cost-payer”; c) provide proper economic signals to carriers and their customers; d) lead to cross-subsidies between low and high volume customers or other customer classes; or e) create perverse incentives regarding infrastructure development, network configuration or points of interconnection? (Source: Summary of Recent FCC’s NPRM and Report and Orders on Intercarrier Compensation by the National Regulatory Research Institute, June 2001).

With these questions in mind, it is unclear what impact a unified regime will have on the end user. For instance, under a bill and keep compensation arrangement for interstate access charges, compensation would shift from a calling party’s network pays regime (CPNP) to a regime where the called party could pay a substantial part of the access costs at the terminating end of the call, whether the called party wanted to receive that call or not. “Because there are no termination charges under a bill-and-keep arrangement, each carrier is required to recover the costs of termination (and origination) from its own end-user customers.” (Source: *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, ¶ 9). Similarly, under a unified regime, local carriers could increase local rates to offset any loss in revenue due to the loss of reciprocal compensation. Theoretically, the long distance carrier would pass on any savings realized from a shift from CPNP to bill and keep, but there does not appear to be any mechanism in place to

guarantee the end user will be the recipient of such savings and that such savings will counterbalance any potential cumulative increases in customer bills.

In addition, as the portion of the customer's total telecommunications bill that is subject to section 254(g) geographic rate averaging is reduced because of a unified regime, rates for customers in high cost areas will increase. As the Commission recognizes, increases in customer bills may affect telephone penetration levels and universal service throughout the U.S. (Source: *Id.* at ¶¶ 123 & 124). Any compensation arrangement, whether a unified regime or not, should continue to promote universal service as required by 47 U.S.C. §254.

Although the NPRM predominately addresses unified compensation at the interstate level, there are implications on intrastate rates and policies and jurisdictional separations issues. Since the proposed unified regime could have an impact on both interstate and local rates, the proposal tends to blur the distinction between federal and state jurisdiction. The ambiguity in jurisdiction is further exacerbated as the Commission seeks comment on whether certain state rates should conform with federal policy goals. This presents the risk that the Commission may preempt state decisions on state access and intercarrier compensation arrangements. For instance, in paragraph 87, the Commission seeks comment "on the extent to which section 332 preempts state regulation of intrastate LEC-CMRS interconnection and gives such authority to the Commission." In paragraph 99, the Commission "seek[s] comment on whether, in order to achieve the benefits of a uniform intercarrier compensation regime, state public utility commissions would need to move intrastate access charges to forward-looking economic costs."

Because of the uncertainties surrounding a unified compensation regime as evidenced by the many questions posed by the Commission in the NPRM, the MoPSC would respectfully ask the Commission to request further input from the states as to the state-specific ramifications outside the scope of the

limited timeframe of a comment/reply cycle in a rulemaking. For instance it may be appropriate to establish a federal/state working group to analyze the issues in the NPRM in greater detail. Further, the MoPSC recommends the Commission refer separations and universal service issues to the Joint Board on Separations and the Joint Board on Universal Service, respectively, for further review before implementing any unified compensation regime.

Respectfully submitted,

DANA K. JOYCE
General Counsel

Marc D. Poston, Senior Counsel
Attorney for the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8701 (Telephone)
(573) 751-9285 (Fax)
mposton@mail.state.mo.us